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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

DERRING'S ADM'R v. VIRGINIA RY. & POWER CO.

March 21, 1918.

[95 S. E. 405.]

1. Carriers (§ 328 (1)*)—Carriage of Passengers—Boarding—Contributory Negligence.—In an action for wrongful death of decedent, who was struck by a street car while crossing the street car tracks to board it, the car not stopping, although it was customary to stop at that place, plaintiff was guilty of contributory negligence precluding recovery, since the mere fact that he was a passenger gave him no right to step upon the track in close proximity to the rapidly approaching car.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 708.]

2. Carriers (§ 280 (1)*)—Carriage of Passengers—Carrier as Insurer.—A carrier is not an insurer of the safety of its passengers.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 700.]

3. Carriers (§ 340*)—Carriage of Passengers—Last Clear Chance Doctrine.—Where plaintiff's decedent was struck by a rapidly approaching street car while crossing the track to board it, the doctrine of the last clear chance had no application.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 710, 711.]

Error to Circuit Court, Norfolk County.

Action by Deering's administrator against the Virginia Railway & Power Company. Judgment for defendant, and plaintiff brings error. Affirmed.

Page, Page & Page and *S. Burnell Bragg*, all of Norfolk, for plaintiff in error.

Williams, Tunstall & Thom, of Norfolk, for defendant in error.

CHESAPEAKE & O. RY. CO. v. WILLIAMS & LOUTHAN.

March 21, 1918.

[95 S. E. 417.]

1. Courts (§ 121 (11)*)—Amount in Controversy—Interest—Waiver.—In an action against a railroad to recover excess freight charges,

*For other cases, see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

plaintiffs had a right to claim interest or not as they chose, and the trial court, at defendant's request, could not make them claim interest to bring the amount in controversy within the jurisdictional limit of the Supreme Court of Appeals.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 475; 8 Va.-W. Va. Enc. Dig. 883.]

2. Public Service Commissions (§ 27*)—Review of Action—Judgment for Excess Freight Charges—Constitution.—In an action against a railroad to recover excess freight charges on creosote in steel drums, judgment for plaintiffs, not questioning any action of the State Corporation Commission, but merely determining which of two rates prescribed by the commission, the commodity rate or the class rate, was applicable to the shipment, was not in contravention of Const. 1902, § 156, declaring that no court except the Supreme Court of Appeals shall have jurisdiction to review, reverse, correct, or annul any action of the Corporation Commission within the scope of its authority.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 475.]

3. Courts (§ 120*)—Supreme Court of Appeals—Jurisdictional Amount.—The Supreme Court of Appeals has no appellate jurisdiction when the amount in controversy is less than \$300.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 475.]

Error to Hustings Court of Richmond.

Action by Williams & Louthan, Receivers, etc., against the Chesapeake & Ohio Railway Company. To review judgment for plaintiff, defendant brings error. Writ dismissed.

D. H. & Walter Leake and *Henry Taylor, Jr.*, all of Richmond, for plaintiff in error.

Gunn & Mathews, of Richmond, for defendant in error.

CAMP & MEEHL *v.* CHRISTO MFG. Co., Inc.

March 21, 1918.

[95 S. E. 424.]

1. Sales (§ 355 (2)*)—Action for Price—Issues, Proof and Variance.—An action to recover on promissory notes for goods sold is virtually one on the contract of sale, and the defense that plaintiff had collected, but not credited, insurance on such property could be proved under the general issue; no special plea therefor being required.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 77.]

2. Insurance (§ 580 (1)*)—Insurable Interest—Collateral Security.—Where the seller of property effects insurance under contract to sell,

*For other cases, see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.